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22W/3628

Docket No.: 360044.401
0805-003-001-SEED
Customer No. 44,765

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

POST-FILING TRANSMITTAL

Inventors: Gregory Brown and Marcellino Tanumihardja
TITLE: WIRELESS PAYMENT PROCESSING
Application No.: 09/894,274
Filing Date: June 27, 2001
Confirmation No.: 5243

ENCLOSURES

☒ A Supplemental/Superseding Interview Summary and Supplemental/Superseding Amendment.

LARGE ENTITY FEE CALCULATION

Claims:

	Number Remaining	Number Paid For	=	Extra	x	Surcharge	=	\$
Total Claims	78	25	=	33	x	\$50	=	\$
Independent Claims	6	0	=	3	x	\$200	=	\$
Multiple Dependent Claims	0			0		\$360		\$
Assignment Recordation	0			0		\$40		\$

Total Fee Enclosed 0

METHOD OF PAYMENT

☐ Payment enclosed

☐ Check

☐ Money Order

☐ Other

☒ The Commissioner is hereby authorized to

☐ Charge indicated fees and credit any over payments to Deposit Account No. _____

☒ Charge any additional fees required under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 502857.

Submitted by:

Dale Cook
Attorney
Reg. No. 42,434

26 OCT 2005
Date



PATENT

I hereby certify that on the date specified below, this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

October 26, 2005

Date

Jennifer Badley
Jennifer Badley

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gregory Brown and Marcellino Tanumihardja
Application No. : 09/894,274
Filed : June 27, 2001
Title : WIRELESS PAYMENT PROCESSING
Confirmation No. : 5243

Examiner : Poinvil, Frantzy
Art Unit : 3628
Docket No. : 360044.401
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SUPPLEMENTAL/SUPERSEDING INTERVIEW SUMMARY AND
SUPPLEMENTAL/SUPERSEDING AMENDMENT

Commissioner for Patents:

This paper is supplemental to and superseding of the Interview Summary and Amendment filed 05 October 2005. This paper corrects typographical/grammatical errors in the superseded document. No extension of time is believed necessary. However, in the event that an extension of time is required, such extension of time is hereby requested. The Director is hereby authorized to charge any additional fees due to Deposit Account No. 502857.

INTERVIEW SUMMARY

On 04 October 2005 Examiner Poinvil (hereinafter “Examiner”) spoke with the undersigned (who was acting on behalf of the Applicant Entity and whom will hereinafter be referred to as “Applicant”) by telephone regarding Examiner’s 07/05/2005 Final Office Action. Applicant’s recollection of the substance of that interview is set forth following.

I. DISCUSSION OF PRESENT AMENDMENT AND UPCOMING SEPARATE CONTINUATION APPLICATION

Examiner Poinvil and Applicant discussed minor claim revisions to make yet more clear that the then-pending claims were patentable over the art and/or to make yet more clear Applicant’s post-issuance enforcement stance. Examiner Poinvil and Applicant also discussed the addition of alternative claims that clarify other aspects. Examiner Poinvil stated that such other claims seemed to him to form another distinct invention. Accordingly, Applicant agreed to file such other claims as a continuation of the instant case by the end of this current week.

Examiner Poinvil and Applicant also discussed the fact that Applicant was recasting the previously-filed independent claims and/or adding additional claims herein to limit inappropriate attempts to assert post-issuance single-entity infringement arguments and/or as a courtesy to Examiner Poinvil to increase grammatical clarity.

II. ADDITIONAL DISCUSSION RELATING TO ART CITED BY EXAMINER

Examiner Poinvil and Applicant discussed that Figure 1 of technical material cited by Examiner, Joao et al., US 6,529,725, shows

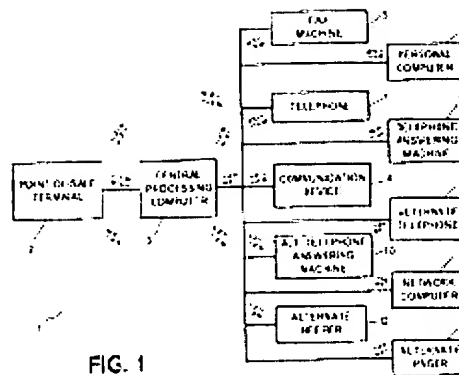


FIG. 1

and further states in relation to Figure 1:

FIGS. 3A, 3B, and 3C illustrates the operation of the apparatus 1 [of FIG. 1] in flow diagram form. With reference to FIGS. 3A, 3B, and 3C, the operation of the apparatus 1 commences ... when the card, which is to be utilized in a **credit card, charge card, debit card, and/or currency or "smart" card transaction**, is presented in the transaction.... the sales or service attendant or point-of-sale terminal operator (hereinafter "point-of-sale terminal operator") will activate the apparatus 1 in any typical manner, such as by ... entering card information into the point-of-sale terminal 2. This data entry is typically performed by **swiping the magnetic strip of the card through the card reader 2B**. The **information and/or data pertinent to the transaction, and/or the card, is then transmitted... to the central processing computer 3**.

The central processing computer 3 will ... process the information and/or data pertinent to the transaction and/or to the particular card account and may request, if needed, that the point-of-sale operator enter the transaction amount. The central processing computer 3 will then process the information and/or data pertinent to the transaction in conjunction with the card account information in order to determine if the card has been lost, stolen and/or cancelled and/or de-activated. Further, the central processing computer 3 will perform a test to determine if the card has reached and/or exceeded the maximum credit, charge or debit limit and/or if the card has been depleted of its currency value.

...

If ... the central processing computer 3 determines that the card is not lost, stolen, cancelled or de-activated, or that the credit, charge or debit limit of the card has not been reached or exceeded, or that the of unauthorized transactions count (UNAUTHCT) has not reached a pre-defined limit, or whether any other pre-defined, pre-selected and/or programmed limitation(s) and/or restriction(s) have been met, have been satisfied and/or have been reconciled, **the central processing computer 3 will ... transmit a signal and/or data to the communication device 4 which is located at the cardholder**.

...

The information and/or data which is transmitted to the communication device 4 includes information and/or data identifying the transaction and may include the name of the store or the service provider and the amount of the transaction. The information and/or data may also provide the time of the transaction, the location (i.e. city, town, village, state, country etc.) of the transaction. The information and/or data may also include the phone number of the central processing office and/or computer servicing the account so that the cardholder may telephone same in order to authorize or cancel the transaction. The information and/or data may also be supplemented to include the type of

goods and/or services involved in the transaction, if such information can be entered at the point-of-sale terminal 2.

... the information and/or data which is transmitted from the central processing computer 3 and received at the communication device 4 is displayed to the cardholder on the display device 4E of the communication device 4. The information displayed on the display device 4E includes the name of the store or the service provider, the amount of the transaction, the time of the transaction and the location of the transaction. The information and/or data may also be supplemented to include the type of goods and/or services involved in the transaction, if such information can be entered at the point-of-sale terminal 2.

The apparatus 1 will then ... wait for the cardholder to respond to the transmission. **During this time, the cardholder may either utilize the reply or two-way pager feature on the communication device 4 in order to either approve or authorize the transaction or disapprove of or void the transaction....** the central processing computer 3 will also receive the response if one is sent. ...

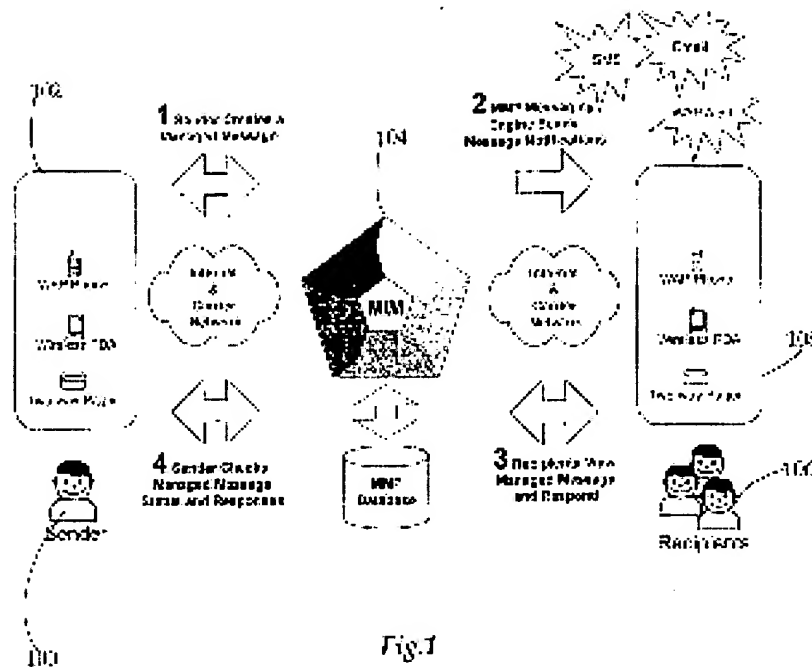
...
If ... the response or reply is determined to be timely, the central processing computer 3 will ... process and identify the cardholder response.... the central processing computer 3 will determine if the cardholder has replied or responded so as to authorize the transaction. **If the cardholder's response is to cancel, disapprove or, or not to authorize, the transaction ... the central processing computer 3 will ... transmit a signal and/or data to the point-of-sale terminal 2 which will notify and/or instruct the point-of-sale terminal operator that the transaction is not authorized and should, therefore, be cancelled or voided....**

If ... the central processing computer 3 identifies the cardholder reply or response as being one to authorize the transaction, the central processing computer 3 will then transmit a signal and/or data to the point-of-sale terminal 2 which will notify and/or instruct the point-of-sale terminal operator that the transaction is authorized and/or approved.

See Jaoa et al., '725 Patent, col. 16 line 66 – col. 19 line 61 (emphasis added).

III. DISCUSSION OF APPLICATION

In follow-on to the discussion of Jaoa et al., Examiner Poinvil and Applicant then discussed that Figure 1 of the herein-referenced application shows



and further discussed that Applicant was amending¹ the claims herein to recite “receiving at a *wireless device associated with a first user a communication* from a computational entity that sends *the communication* to at least one other *device associated with a second user*” (e.g., Independent Claims 1, 23, 45) and “transmitting a *communication* to a *wireless device associated with a first user*; ... transmitting *the communication* to a *communications device associated with a second user*” (e.g., Independent Claims 46, 65, 78).

Examiner and Applicant discussed that since the art of record describes that the “cardholder may either utilize the reply or two-way pager feature on the communication device 4 in order to either approve or authorize the transaction or disapprove of or void the transaction,” it clearly follows that the art did not show at least the foregoing recitations of Applicant’s claims.

¹ Applicant points out that Applicant did not amend herein for reasons related to patentability. Rather, Applicant has amended to improve clarity for Examiner, even though Applicant continues to assert that the claims as filed met statutory definiteness and novelty requirements. Applicant understands that Examiner is not bound by post-issuance claim interpretation legal rules, and thus can require amendments to give prima facie clarity to the claims even if such would not be required to render the claims patentable under the appropriate rules of claim interpretation. See *In Re American Academy of Science Tech Center* (Fed. Cir. 2004) (indicating that the PTO is not bound to follow the post-issuance rules of claim construction, and thus may require an applicant to amend to give clarity beyond that necessary for a claim to be definite/novel under the Patent Statutes).

In light of the foregoing, Applicant respectfully asserts that resolution was reached and asks that Examiner hold all pending claims, as amended herein, allowable.

IV. DISCUSSION OF AMENDMENTS RELATED TO POST-ISSUANCE ENFORCEMENT CONCERNS

During the course of the interview, Examiner Poinvil and Applicant discussed the fact that the great majority of the amendments herein make clearer that Applicant's claims can be infringed by a single entity.² For example, Claims 1-45 as amended herein may be performed in some approaches by a (user's) handheld wireless device (e.g., cell phone, PDA, two-way pager, etc. such as shown in Figure 1 of the herein referenced application).³ For example, both the "receiving" and "transmitting" operations of Independent Claim 1 can be performed by use of a handheld wireless device, since the claim recites "receiving at a wireless device associated with a first user a communication from a computational entity" and the language "that sends the communication to at least one other device associated with a second user" of Independent Claim 1 is an adjective phrase modifying "computational entity" and not generally an active part of the "receiving," but is rather descriptive of that which is received. (Similar logic applies to similar claims.) Likewise, Claims 46-78 as recast herein can be performed by a (service provider's) computational entity (e.g., Managed Messaging Platform engine 104 such as shown in Figure 1 of the herein referenced application). In light of the foregoing, Applicant states for the record that Applicant has no intention of surrendering subject matter or disavowing claim scope since amendments herein have been/are made for reasons other than and/or tangential to patentability.

² Infringement concerns and patentability are legally separate reasons for making amendments. For example, some commentators have conjectured that a claim may be patentable and valid, yet could possibly be unenforceable in light of the single entity rule. Hence, amendments herein are for reasons other than patentability.

³ Examples herein are provided as an illustrative courtesy for the Examiner, and Applicant expressly states that they are not in any way to be taken as limiting. Applicant further points out that statements regarding the single entity rule are not statements regarding either claim scope or interpretation, but are rather more directed toward clarifying that a single legal entity may perform such claims, however such claims are ultimately interpreted by a Court under the appropriate legal standards of claim interpretation.